

**HIGH COURT OF CHHATTISGARH AT BILASPUR****WP227 No. 638 of 2026**

Kailash Kumar Sahu S/o Parmanand Sahu Aged About 29 Years R/o Lilesh Fancy Store Tiranga Chowk Pahadi Talab Kushalpur Police Station Purani Basti Raipur District Raipur C.G.

... **Petitioner(s)**

versus

1 - Smt. Dolly Sahu R/o Village Teka Police Station Rajim District Gariyaband C.G.

2 - Minor Anshika Sahu D/o Kailash Kumar Sahu Aged About 7 Years Represented Through Mother Smt, Dolly Sahu R/o Village Teka Police Station Rajim District Gariyaband C.G.

... **Respondent(s)**

For Petitioner(s) : Mr. Sanjeev Kumar Sahu, Advocate

(Hon'ble Shri Justice Amitendra Kishore Prasad, J.)

Order on Board

04/06/2026

1. Heard.
2. Present is a writ petition filed by the petitioner under Article 227 of the Constitution of India challenging the impugned order dated 29.05.2026 passed in Case No. 51/2025 by the learned Third Additional Principal Judge, Family Court, Raipur (C.G.) whereby the learned Family Court has rejected the application under Order 8 Rule 1(3) of CPC filed by the petitioner for taking documents including video recording & voice recording of minutes of meeting, duly certified by the expert.



3. Learned counsel for the petitioner submits that the impugned order passed by the learned Family Court, Raipur is wholly illegal, perverse and contrary to the settled principles of law, and therefore deserves to be set aside. It is contended that the learned Family Court has gravely erred in observing that the application filed by the petitioner was an afterthought intended to fill up *lacunae* in the case, whereas the documents sought to be brought on record are material and necessary for substantiating the defence of the petitioner-husband. Learned counsel further submits that the proceedings were still at the stage of the respondent's evidence and the petitioner's evidence had not commenced; hence, no prejudice would have been caused to the respondents by allowing the application. He further submits that there are some video recordings and voice recordings which are required to be produced and have already been examined by Expert Dr. S.K. Dhenge, who has issued the requisite certificate in respect thereof, making the electronic pieces of evidence admissible in law and the respondent No. 1 has admitted the said documents in her evidence, and therefore, the learned Family Court ought to have considered their relevance and evidentiary value. Therefore, it is prayed that the impugned order be quashed and the petitioner's application for taking the documents on record be allowed in the interest of justice.
4. I have heard learned counsel for the petitioner and perused the material annexed with the petition.
5. From a perusal of the documents, it transpires that after the completion of the evidence of the respondent-wife on 30.04.2026, the petitioner-husband has moved an application under Order 8 Rule 1(3) of the CPC



to bring on record certain photographs and video-graphs, which were stated to have been verified by the forensic expert, namely, Dr. S.K. Dhengre. According to the petitioner, the said documents are relevant for adjudication of the dispute and their necessity has also emerged from the evidence of the respondent-wife recorded before the concerned Family Court. The Family Court, while considering the application, observed that the petitioner had knowledge of the said documents since 18.11.2023, however, despite of that, no steps were taken to file the documents at the appropriate stage. Taking note of the fact that the evidence of the respondent-wife had already been concluded, the trial Court rejected the said application.

6. Order 8 Rule 1-A of the CPC reads as under :-

"1-A. Duty of defendant to produce documents upon which relief is claimed or relied upon by him.-

(1) Where the defendant bases his defence upon a document or relies upon any document in his possession or power, in support of his defence or claim for set-off or counterclaim, he shall enter such document in a list, and shall produce it in court when the written statement is presented by him and shall, at the same time, deliver the document and a copy thereof, to be filed with the written statement.

(2) Where any such document is not in the possession or power of the defendant, he shall, wherever possible, state in whose possession or power it is.

(3) A document which ought to be produced in court by the defendant under this Rule, but, is not so produced shall not, without the leave of the court, be received in evidence on his behalf at the hearing of the suit.

(4) Nothing in this Rule shall apply to documents-

(a) produced for the cross-examination of the plaintiff's witnesses, or

(b) handed over to a witness merely to refresh his memory."



7. The Hon'ble Supreme Court in the matter of **Sugandhi (Dead) by legal representatives and another V/s P. Rajkumar represented by his power agent Imam Oli¹** held as under :-

“7. Sub-rule (1) mandates the defendant to produce the documents in his possession before the court and file the same along with his written statement. He must list out the documents which are in his possession or power as well as those which are not. In case the defendant does not file any document or copy thereof along with his written statement, such a document shall not be allowed to be received in evidence on behalf of the defendant at the hearing of the suit. However, this will not apply to a document produced for cross-examination of the plaintiff's witnesses or handed over to a witness merely to refresh his memory. Sub-rule (3) states that a document which is not produced at the time of filing of the written statement, shall not be received in evidence except with the leave of the court. Rule 1(1) of Order 13 CPC again makes it mandatory for the parties to produce their original documents before settlement of issues.

8. Sub-rule (3), as quoted above, provides a second opportunity to the defendant to produce the documents which ought to have been produced in the court along with the written statement, with the leave of the court. The discretion conferred upon the court to grant such leave is to be exercised judiciously. While there is no straitjacket formula, this leave can be granted by the court on a good cause being shown by the defendant.”

8. In light of the aforesaid pronouncement of Hon'ble Supreme Court when the case at hand is examined and in view of the facts and circumstances of the case and material available on record, this Court finds that the trial Court has not committed any jurisdictional error or illegality in rejecting the application, particularly when the evidence of the respondent-wife had already been recorded and concluded and the documents were within the knowledge of petitioner since 18.11.2023,

1 (2020) 10 SCC 706



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no interference is required. Furthermore, the petitioner contends that the respondent-wife has admitted certain documents and hence, it is noted that it shall remain open to the petitioner to avail the benefit of such admissions in accordance with law at the appropriate stage of the proceedings.

9. With the aforesaid observation, the present petition is **disposed of**.
10. Pending Interlocutory Applications, if any, shall stand disposed of.

Sd/-
(Amitendra Kishore Prasad)
JUDGE